

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
(804) 786-2259

Granted Appeal Summary

Case

HELEN MARIE TAYLOR, ET AL. v. RALPH S. NORTHAM, ET AL.
(Record Number 210113)

From

Circuit Court of the City of Richmond; W. R. Marchant, Judge.

Counsel

Fred D. Taylor (Bush & Taylor, P.C.) and Patrick M. McSweeney for appellants.

Mark R. Herring, Erin B. Ashwell, Samuel T. Towell, Marshall H. Ross, Jaqueline C. Hedbloom, Erin R. McNeill, Toby J. Heytens, Michelle S. Kallen, Jessica Merry Samuels, and Kendall T. Burchard (Office of the Attorney General) for appellees.

Assignments of Error

1. The circuit court erred as a matter of law in concluding that enforcement of the restrictive covenants in the 1887 and 1890 Deeds would be contrary to current public policy as established by the Virginia General Assembly in its 2020 special session because the Budget Amendment on which the circuit court relied for that conclusion is special legislation that grants relief in this case in violation of Article IV, § 14 of the Constitution of Virginia and, therefore, cannot establish the public policy of the Commonwealth.
2. In denying Plaintiffs' motion for summary judgment and dissolving the temporary injunction, the circuit court erred as a matter of law by declining to rule on Plaintiffs' contention that the Budget Amendment violates the prohibition against impairment of the obligation of contracts in Article I, § 11, Clause 2 of the Constitution of Virginia and Article I, § 10, Clause 1 of the United States Constitution and, therefore, it cannot establish the public policy of the Commonwealth.
3. The circuit court erred as a matter of law in concluding that enforcement of the restrictive covenants in the 1887 and 1890 Deeds would be contrary to current public policy as established by the Virginia General Assembly in its 2020 special session because the Budget Amendment on which the circuit court relied for that conclusion violates the separation-of-powers provisions in Article I, § 5 and Article III, § 1 of the Constitution of Virginia and, therefore, cannot establish the public policy of the Commonwealth.

4. In denying Plaintiffs' motion for summary judgment and dissolving the temporary injunction, the circuit court erred as a matter of law by declining to rule on Plaintiffs' contention that the Budget Amendment violates the rule established by this Court that a legislative act generally cannot abrogate a valid restrictive covenant unless it is demanded by the public health, comfort or welfare and, therefore, it cannot establish the public policy of the Commonwealth.
5. The circuit court erred as a matter of law in declining to grant summary judgment to Plaintiffs because there was no material fact in dispute and Plaintiffs had established the grounds in law and fact for a grant of summary judgment in their favor.
6. In denying Plaintiffs' motion for summary judgment and dissolving the temporary injunction, the circuit court abused its discretion by declining to consider and rule on Plaintiffs' contention that invalidation of the restrictive covenants in the 1887 and 1890 Deeds would be contrary to the public policy of the Commonwealth regarding historic preservation, as expressed in Article XI, §§ 1 & 2 of the Constitution of Virginia, as implemented by the Virginia General Assembly in Code of Virginia §§ 10.1-1700 et seq., 10.1-2202.3, 10.1-2205, 10.1- 2206.1, 10.1-2206.2, 10.1-2207 and 10.1-2212.